IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 705 of 1988

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT ELECTRICITY BOARD

Versus

GURUSHANT DEVPURA KHANPURA

Appearance:

1. Special Civil Application No. 705 of 1988

MR MD PANDYA for the Petitioner

Respondent SERVED

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 20/09/2004

ORAL JUDGEMENT

Heard the learned advocate.

The petitioner - Gujarat Electricity Board (hereinafter referred to as the 'Board') challenges the judgment and award dated 11th November, 1987 passed by the Industrial Tribunal, Ahmedabad (hereinafter referred to as the 'Tribunal') in Reference (IT) No.103/1987.

The respondent - workman was, at the relevant time, serving in the Board as Deputy Engineer (Electricals). The respondent claimed that he was a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act'). In view of the prevalent policy of the Board he was entitled to continue in service till he attained the age of 60 years.

The Board contested the said claim. According to the Board the respondent was not a 'workman' within the meaning of the Act. The age of superannuation should, therefore, be 58 years.

The Tribunal, considering the evidence on record, held that the respondent was the 'workman' within the meaning of the Act and was entitled to continue in service till he attained the age of 60 years.

On perusal of the records, it appears that the respondent attained the age of 60 years in the month of July, 1987. Pending the Reference before the Tribunal, in view of the interim order made by the Tribunal, the respondent continued in service till he attained the age of 60 years and was retired from service on 31st July, 1987.

Learned advocate Mr.Pandya has submitted that the aforesaid interim order was made with the consent of the Board. The respondent was thus continued in service till he attained the age of 60 years; was paid salary till he retired from service and has been paid the retiral benefits also.

As the respondent continued in service till he attained the age of 60 years, received the salary till he served and received the retiral benefits on his retirement from service on 31st July, 1987, the matter at issue whether the respondent can be said to be a 'workman' within the meaning of Section 2(s) of the Act or not has become academic. The same may not be decided in the present petition.

In above view of the matter, the petition is

disposed off. Rule is discharged. There shall be no order as to cost.

It is clarified that the matter has not been examined on merits.

(Ms. R.M.Doshit, J.)

/sakkaf